

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
March 4, 2003

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:02 p.m., Tuesday, March 4, 2003, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Donald E. Wiggins, James S. Burgett, and Thomas G. Shepperd.

Sheila S. Noll was absent.

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

Invocation. Courtney Rosso, York County Youth Commission, gave the Invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Burgett led the Pledge of Allegiance.

## **PRESENTATIONS**

### INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS

Chairman Burgett and Vice Chairman Shepperd introduced and welcomed the following newly appointed members to York County Boards and Commissions and presented them with Boards and Commissions Handbooks and York County pins:

A. T. Hamilton	Planning Commission
James R. Bailey	Board of Building Code Appeals
John J. Griffith	Board of Building Code Appeals
Barbara G. Rollins	Historical Committee
Patricia T. Sparrer	Historical Committee

### COMMENDATION OF FORMER MEMBERS OF THE YORK COUNTY BOARD OF BUILDING CODE APPEALS

Vice Chairman Shepperd read a citation to George Morledge and Robert Criner, two former members of the York County Board of Building Code Appeals, commending them for their service to the Board, and Chairman Burgett presented them with bound and sealed copies of Resolution R03-24 which was adopted on February 4, 2003.

### YORK COUNTY YOUTH COMMISSION

Miss Tatiana Chaterji, Secretary of the York County Youth Commission, presented the Commission's 3<sup>rd</sup> quarterly report to the Board of Supervisors. She indicated the Commission has been involved in three special events—the third annual countywide trip to Wintergreen, they hosted the annual valentine bingo party at the Senior Center of York, and they attended and participated in the Neighborhood's Conference at James City County where over 50 youth attended the workshops. She announced that the Virginia Department of Health will be providing the Youth Commission a \$10,000 grant for Right Choices for Youth—a risk avoidance program for alcohol, drugs, sex, and violence. She stated the Commissioners look forward to conducting another adopt-a-highway cleanup and hosting a talent show and battle of the bands.

She noted the Commission will assist the Historical Committee with the Zweibrucken Exchange Program this year. Miss Chaterji noted that applications for next year's Youth Commission are out, and she encouraged interested youth ages 13 to 18 to apply.

#### YOUTH COMMISSION SURVEY

Miss Arrion Dennis made a presentation on the 2002 survey conducted by the Youth Commission which explored the views and concerns of York County's students. She spoke of the survey components, and reviewed several of the survey questions and the survey results. The survey showed that more students are participating in extracurricular activities, and use of internet has risen from 33 percent to 73 percent. She then reviewed questions on the survey concerning life in York County and services provided by the County. She also reviewed some of the short answer questions which resulted in comments such as "there's nothing to do in the County." There were also various concerns voiced by the students over traffic congestion in the County. She then summarized the recommendations by the Youth Commission due to the survey results.

#### PROPOSED FISCAL YEAR 2004 OPERATING BUDGET

Mr. McReynolds presented to the Board of Supervisors the proposed FY2004 Budget, and he reviewed the General Fund budget issues impacting the budget which included:

- No tax rate increase
- School funding
- Employee compensation
- State funding

He discussed projected General Fund revenues by source which indicates a local revenue increase of \$4.45 million or 5.8 percent over FY2003, which can be attributed to growth in the real and personal property tax bases, as well as strong sales tax growth. The rate of population growth in the County has slowed, and is expected to grow by about 1 percent with 60,600 people residing in York County in July of 2004. This lower population growth is the result of the steps taken by the Board to manage growth through changes in the zoning densities that will lower the County's ultimate population to approximately 80,000. School enrollment is up 17.2 percent since 1994, and a small increase in the student population is expected over the FY2003 figure, going from an actual enrollment of 12,300 in FY2003 to 12,500 in FY2004. During calendar year 2002, 498 new housing units were completed in the County, and construction is expected to continue at a slightly slower pace during 2003. Education is by far the largest single expenditure and priority in the General Fund taking 46 percent of its total. The School Board was initially told it could expect an increase of \$1.2 million in the local contribution for education, but it was now being recommended that an additional \$254,200 be provided to support the School Division. Mr. McReynolds then reviewed the decline in state funding and the increase in local funding for the school system over the past years. He then noted that

originally there were no new positions recommended for FY2004; but because staff now has a better feel for the County's revenue position, he is now proposing 5 new General Fund positions—three firefighters and two dispatchers, as well as recommended compensation cost increases due to step adjustments and a 2 percent market adjustment. He briefly reviewed the non-personnel increases amounting to \$598,300, and noted that it was recommended that the contingency reserve be returned to its normal funding. In summary, Mr. McReynolds stated that over the past years, population growth, additional school and other programs, and declining federal and state support have greatly raised the demand on County resources, although the proposed budget maintains tax rates at their current levels.

Mr. Zaremba asked what the County's goal is regarding commercial tax revenue as a percentage of local revenue. Currently 46 percent of the County's entire tax revenue is generated by business.

Mr. McReynolds stated the Comprehensive Plan has set a goal of about 50 percent, and the County has been close over the past decade.

Discussion followed concerning the legality of setting caps on population in a locality.

#### **CITIZENS COMMENT PERIOD**

Mr. Arthur Mallory, representing the York-James City County NAACP, stated he was invited by Mr. Wiggins this evening. He noted that Mr. Wiggins happened to attend a luncheon where he made a few comments about what the NAACP does, and Mr. Wiggins asked him to attend the meeting and speak briefly. He stated he was very impressed with the Youth Commission and its quarterly report, and was very proud of Arrion Dennis. He stated York County is part of the York-James City County branch of the NAACP located at McLaws Circle, Williamsburg. Mr. Mallory stated the branch has about 582 members, and 6 percent is non-minority. He stated one of the most recent initiatives the branch had was a community summit on February 1 where there were representatives from York County Social Services. He spoke of other initiatives of the branch such as education and voter registration.

#### **COUNTY ATTORNEY REPORTS AND REQUESTS**

Mr. Barnett had nothing to report at this time.

#### **PUBLIC HEARINGS**

##### **APPLICATION NO. UP-615-03, JOSEPH R. SMITH**

Mr. J. Mark Carter, Assistant County Administrator, made a presentation on Application No. UP-615-03 requesting a use permit to authorize a forestry operation on property located at 590 Taliaferro Road (Route 666). He stated this was an after-the-fact request, noting that timbering has already taken place. The Planning Commission reviewed the application and recommends approval of the application. Staff also recommends approval through the adoption of proposed Resolution R03-42. Mr. Carter noted there is also a 10-foot utility easement along the northern side of the driveway which provides an easement to service this lot, and he recommended that condition No. 9 be amended to include the utility easement.

Mr. Wiggins asked if there was a house on the property.

March 4, 2003

Mr. Carter stated there was, and Mr. Burnette has upgraded his driveway and done some maintenance on it. Mr. Burnette has requested that the log landing area be placed on the site up close to Taliaferro Road so there would not be a need for the trucks to drive as far on the road. Mr. Carter stated it would be a wise move because the least distance the trucks drive on it, the shorter distance the applicant will be required to maintain.

Mr. Joseph R. Smith, the applicant, stated his grandfather settled on this property in 1916, and his father lived there from 1956 to 1971. He stated that upon his father's passing he moved in to consolidate the property. He stated his future plans for the property are to create a family subdivision so his children and grandchildren can have decent homes in the County. Mr. Smith stated he was with the military and then with the US Postal Service. In 1989, after retiring from the Postal Service, he had the job for landscaping York County schools and learned a lot about the County during this time. He stated he did not expect the County's administration to come after him with a hostile attitude regarding the timbering, and he told them he was willing to abide by any lawful rules and codes the County had. After stopping the timbering operation, Mr. Smith stated he applied for a use permit and a timbering plan. Mr. Smith asked the Board to release the logs already piled on the property to go to the mill so that the timbering operator can be paid for his labor and he can make the necessary corrections to the property and move on.

Chairman Burgett then called to order a public hearing on Application No. UP-615-03 which was duly advertised as required by law. Proposed Resolution R03-42(R) is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO  
AUTHORIZE A FORESTRY OPERATION ON 590 TALIAFERRO ROAD  
(ROUTE 666)

Mr. Russell A. Burnette, 588 Taliaferro Road, stated he was present to make sure his rights were protected as a land owner and that the access to his home is taken care of so he can get in and out. He stated some timber was cut on his property, and he is hoping he will be reimbursed. He stated he just wanted to let the Board know that he's concerned about damage to his property and to ask that the Board take into consideration the suggestion of moving the loading zone out further to save wear and tear on the road.

There being no one else present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mr. Zaremba asked how the County precludes this after-the-fact situation from recurring.

Mr. Carter stated that many zoning enforcement issues are made aware to County staff by a citizen call or complaint. He noted that in the past there have been instances of recurring violations, and staff has done articles in Citizens News and York News to publicize. Mr. Carter stated it is probably time with timbering to get the word out.

Mr. Zaremba stated that while some may be informed that this particular violation was ultimately okayed by the Board, they may not know the actual cost to Mr. Smith. He indicated this type of problem needs to be reinforced through the County's public relations capability.

Mr. Wiggins asked Mr. Burnette if Mr. Carter's recommendation satisfied him.

Mr. Burnette stated it did regarding the loading zone and damages to his property.

Mr. Shepperd indicated he was not sure he understands the buffer along the road and property, considering they are wooded. He asked if it is a privately owned road and what purpose it serves.

Mr. Carter stated it is to protect the adjacent property owners, to provide some buffering for the adjacent properties. Under the definitions in the Zoning Ordinance, these are side and rear property lines which require buffers.

Discussion followed regarding the buffer requirements in the use permit.

Mr. Zaremba then moved the adoption of proposed Resolution R03-42(R) that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO  
AUTHORIZE A FORESTRY OPERATION ON 590 TALIAFERRO ROAD  
(ROUTE 666)

WHEREAS, Joseph R. Smith has submitted Application No. UP-615-03 to request a Special Use Permit, pursuant to Section 24.1-306 (category 2, number 10) of the York County Zoning Ordinance, to authorize a forestry operation to be conducted on approximately 10.3 acres located on the north side of Taliaferro Road (Route 666) approximately 1100 feet east of its intersection with Old Williamsburg Road (Route 238) and further identified as Assessor's Parcel No. 17-3-1; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has recommended approval, subject to conditions; and

WHEREAS, the Board has carefully considered the Commission's recommendation and has determined that approval of a Special Use Permit would be appropriate;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4<sup>th</sup> day of March, 2003, that it does hereby approve Application No. UP-615-03, subject to the following conditions:

1. This special use permit shall authorize a forestry operation to be conducted on approximately 10.3 acres located on the north side of Taliaferro Road (Route 666) approximately 1100 feet east of its intersection with Old Williamsburg Road (Route 238) and further identified as Assessor's Parcel No. 17-3-1.
2. All activities shall comply with Sections 24.1-419, Standards for Forestry Operations, and 24.1-376, Watershed Management and Protection Area Overlay District, of the York County Zoning Ordinance.
3. A revised forest management plan incorporating the conditions of this use permit shall be submitted to and approved by the Zoning Administrator and the Virginia Department of Forestry prior to the continuation of the forestry operation.
4. An impact study prepared in accordance with the provisions of Section 24.1- 376(f) of the York County Zoning Ordinance shall be submitted to and approved by the Zoning

Administrator prior to the continuation of any timber harvesting activity on the property.

5. An Erosion and Sediment Control Plan prepared in accordance with the provisions of Chapter 10 of the York County Code, Erosion and Sediment Control, shall be submitted to and approved by the County prior to the continuation of any timber harvesting activity on the property.
6. All forestry activities on the site shall be conducted in accordance with the guidelines set forth in the Virginia Department of Forestry's Forestry Best Management Practices for Water Quality in Virginia Technical Guide (3<sup>rd</sup> Edition).
7. All areas of bare soil resulting from the harvest shall be stabilized through revegetation in accordance with the guidelines set forth in the Virginia Department of Forestry's Forestry Best Management Practices for Water Quality in Virginia Technical Guide (3<sup>rd</sup> Edition). This revegetation shall immediately follow the conclusion of timber harvest activity on the property.
8. Notwithstanding recommendations of guidelines referenced in Condition Nos. 6 and 7 above, immediately following the conclusion of timber harvest activity on the property, all trees removed within the 200-foot tributary stream (Baptist Run) buffer and the 25-foot eastern side yard buffer shall be replaced with trees having a minimum 2½" caliper planting size. In accordance with Section 24.1-376(e)(2) of the Zoning Ordinance, the Zoning Administrator may approve a reduction of the 200-foot buffer to a minimum of 50 feet based on findings of the approved impact study required in Condition No. 4 above.
9. A 25-foot wide buffer shall be established bordering the 15-foot access easement and 10-foot utility easement located along the southern and eastern property boundaries. This buffer area shall be revegetated immediately following the conclusion of timber harvest activity on the property in accordance with planting specifications set forth in Section 24.1-243(a)(1) of the Zoning Ordinance.
10. Immediately following the conclusion of harvest activity on the property, all trees removed from the eastern abutting property (588 Taliaferro Road, Assessor's Map No. 17-3-2) shall be replaced with equivalent species having a minimum 2½" caliper planting size. Evidence of written approval by the property owner to replace removed trees shall be submitted to the County prior to replanting. Inability to secure such approval shall not be deemed a violation of this condition.
11. In areas outside of the tributary stream buffer, all harvested timber, logs, tree branches, limbs, dead and damaged trees, and associated debris shall be removed from the site upon completion of the timber harvest. Further timbering activity within the stream buffer shall not be permitted, except for needed revegetation and other erosion and sediment control measures deemed necessary by the Zoning Administrator.
12. The timbering operation shall be conducted in a manner to preclude damage to the existing gravel access road abutting the property's southern boundary, and any damage to the road resulting from the forestry operation shall be repaired without delay. The applicant shall be responsible for upgrading the road prior to continuation of timber harvesting activity if deemed necessary by the Zoning Administrator to accommodate heavy equipment used in the timbering operation.

13. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the vote was:

Yea: (4) Zaremba, Wiggins, Shepperd, Burgett  
Nay: (0)

APPLICATION NO. ZT-72-03, YORK COUNTY BOARD OF SUPERVISORS

Mr. Carter made a presentation on Application No. ZT-72-03 to amend the York County Zoning Ordinance to revise the regulations and performance standards applicable to accessory apartments. He stated that not shown on the initial proposed ordinance is Mr. Burgett's suggestion that utility billing must be to a single party. He indicated a condition has been inserted in the proposed revised ordinance to address this. The Planning Commission considered the application and recommend approval, and staff recommends approval through the adoption of proposed Ordinance No. 03-8(R).

Chairman Burgett then called to order a public hearing on Application No. ZT-72-03 which was duly advertised as required by law. Proposed Ordinance No. 03-8(R) is entitled:

AN ORDINANCE TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, ZONING, YORK COUNTY CODE) TO REVISE THE REGULATIONS AND PERFORMANCE STANDARDS APPLICABLE TO ACCESSORY APARTMENTS

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mr. Shepperd moved the adoption of proposed Ordinance No. 03-8(R) that reads:

AN ORDINANCE TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, ZONING, YORK COUNTY CODE) TO REVISE THE REGULATIONS AND PERFORMANCE STANDARDS APPLICABLE TO ACCESSORY APARTMENTS

WHEREAS, the York County Board of Supervisors has sponsored Application No. ZT-72-03 to allow consideration of amendments to accessory apartment provisions contained in the York County Zoning Ordinance; and

WHEREAS, the proposed amendments have been referred to the York County Planning Commission for review and public hearing in accordance with required procedures; and

WHEREAS, the Commission has recommended approval of the application; and

WHEREAS, the Board has considered the recommendations of the Commission and has determined that amendment of the County's accessory apartment provisions would be appropriate and consistent with good zoning practice.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 4<sup>th</sup> day of March, 2003, that it does hereby approve the following amendments to the York County Zoning Ordinance (Chapter 24.1, York County Code):

\*\*\*

#### **Sec. 24.1-104. Definitions**

- ? *Dwelling, accessory unit/apartment.* A separate and complete housekeeping unit which provides complete and independent living, sleeping, and sanitation facilities, and which may or may not include permanent cooking facilities. Such unit may be contained within or outside of a primary residence but is clearly secondary to a primary single-family dwelling located on the same lot. When in a detached structure, the presence of a habitable room or rooms, as defined by the Virginia Uniform Statewide Building Code, including a living area and a bathroom with sink, toilet and tub or shower shall be considered to constitute an accessory apartment. When such habitable space is a part of the principal structure on the property, the presence of an independent entrance, a bathroom with sink, toilet, and tub/shower, and physical separation (by walls or floors) from the principal residence shall be deemed to constitute an accessory apartment.

\*\*\*

#### **Sec. 24.1-306. Table of land uses**

USES <small>P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT</small>	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 1 - RESIDENTIAL USES												
1. Residential - Conventional													
a) Single-Family, Detached	P	P	P	P		S							
b) Single-Family, Attached													
• Duplex				S		P							
• Townhouse						P							
• Multiplex						P							
c) Multi-Family						P							
d) Manufactured Home (Permanent)					P								
2. Residential (Cluster Techniques Open Space Development)													
a) Single-Family, Detached	P	P	P	P									
b) Single-Family, Attached													
• Duplex	S	S	S	S									
3. Apartment Accessory to Single-Family Detached	(1)	(1)	(1)	(1)									
4. Manufactured Home Park					S								
5. Boarding House		S				S							
6. Tourist Home, Bed and Breakfast		S	S	S		S		P	P				
7. Group Home (for more than 8 occupants)		S	S	S		S							
8. Transitional Home		S	S	S		S							

(1) Refer to Section 24.1-407 for accessory apartment location and performance standards

#### **Sec. 24.1-407. Standards for accessory apartments in conjunction with single-family detached dwellings.**

- (a) Not more than one (1) accessory apartment may be permitted in conjunction with a single-family detached dwelling.



- (b) Accessory apartments may be considered and authorized in accordance with the following schedule/procedures:
1. Accessory apartments not exceeding 600 square feet or 25% of the floor area of the principal structure, whichever is less, and attached to the principal structure (the single-family detached dwelling unit), shall be permitted as a matter of right in the RC, RR, R20 and R13 zoning districts. Attached accessory apartments in excess of the 600 square feet/25% limitation, but not exceeding 800 square feet or 35% of the floor area of the principal structure, whichever is less, may be authorized by special use permit in the RC, RR, R20 and R13 zoning districts.
  2. Accessory apartments proposed in detached structures in the RC, RR, R20 or R13 zoning districts shall require authorization by special use permit and shall not exceed 800 square feet or 35% of the principal structure floor area, whichever is less.
  3. Notwithstanding the above limitations, on property in the RC or RR zoning districts which is at least twice as large as the applicable conventional development (i.e., not a "cluster" development) minimum lot size for that district/property, or on property in the R20 zoning district which is at least four times as large, an attached or detached accessory apartment shall be permitted as a matter of right provided that it does not exceed 800 square feet or 35% of the principal structure floor area, whichever is less. Upon authorization by special use permit, the maximum size of an accessory apartment on such property may be increased to 1,000 square feet or 49% of the floor area of the principal structure, whichever is less.
- (c) Access to an accessory apartment whether in the principal structure or in a detached accessory structure, shall be designed so that the premises continues to have the appearance from the principal street frontage of one single family detached dwelling unit and its customary accessory structures. No new entrance to accommodate an accessory apartment shall be installed on the front façade (facing the street) of an existing or proposed principal structure. The applicant shall be responsible for submitting sketches and/or plans to demonstrate compliance with this condition.
- (d) For the purposes of determining allowable floor area for an accessory apartment, all "habitable space," as defined and determined under the terms of the Building Code, shall be included in the calculation and shall be considered a part of the apartment. Space which does not meet the "habitable" criteria shall not be counted in floor area calculations for the accessory apartment
- (e) Notwithstanding the provisions of Section 24.1-273(c) of this chapter, for the purposes of this section, the term "attached" shall be construed to require connection by enclosed, heated, habitable space. Structures which are merely attached by a wall or roof construction, or which are within ten (10) feet of the principal structure shall not be considered "attached."
- (f) The maximum number of bedrooms in an accessory apartment shall be one (1).
- (g) Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.

March 4, 2003

- (h) Approval of accessory apartments shall be contingent upon prior certification by the health department that any on-site water supply and sewage treatment facilities are adequate to serve the total number of bedrooms proposed on the property (principal and accessory).
- (i) The accessory apartment shall be occupied only by family members or guests of the occupant of the single-family dwelling or by a bona fide medical/health caretaker or domestic employee of the occupant of the single family dwelling. The apartment shall not be offered to the general public (i.e., non-family members/non-guests) for rental or other occupancy arrangements.
- (j) All utilities serving the accessory apartment (e.g., electric, water, sewer, gas) shall be registered to the occupant of the principal residence. Registration/billing of utility accounts to different parties (e.g. the occupant of the principal residence and the occupant of the accessory apartment) shall be prohibited, even if separate meters for the principal residence and accessory apartment are used.
- (k) Prior to issuance of a Building Permit for the accessory apartment the property owner shall prepare and record with the Clerk of the Circuit Court, at his expense, a deed restriction on the property stipulating that the accessory apartment will be used, occupied and maintained in accordance with the above-noted restrictions and such others as may be prescribed by the York County Board of Supervisors in approving the special use permit. Such restrictions shall not be voided, in whole or in part, unless specifically authorized by the County Administrator in recognition of some subsequent change in the zoning restrictions applicable to accessory apartments or upon removal of the accessory apartment through demolition or alterations to the structure.

\*\*\*

On roll call the vote was:

Yea: (4) Wiggins, Shepperd, Zaremba, Burgett  
Nay: (0)

#### **COUNTY ADMINISTRATOR REPORTS AND REQUESTS**

Mr. McReynolds reminded the Board members of their upcoming meeting schedule as follows:

March 6	7:00 p.m.	Joint Meeting with the Industrial Development Authority
March 11	6:00 p.m.	Budget Work Session
March 13	7:00 p.m.	Public Hearing on FY04 Budget and Tax Rates
March 18	7:00 p.m.	Regular Meeting
March 20	6:00 p.m.	Budget Work Session
March 25	6:00 p.m.	Budget Work Session

March 26	7:00 p.m.	Joint Meeting with the Chairs of York County's Boards and Commissions
March 27	6:00 p.m.	(Tentative) Budget Work Session
April 1	5:30 p.m.	Budget Work Session
	7:00 p.m.	Regular Meeting (Adoption of FY04 Budget)

Mr. Zaremba suggested that all the dates be placed on the website and Channel 46 so that the public will know about them.

### **MATTERS PRESENTED BY THE BOARD**

Mr. Zaremba asked the Board to give some thought to considering a regional comprehensive plan with the jurisdictions of Williamsburg and James City County. He stated that tourism has been losing market share to other attractions, and this will continue because every year there are more and more attractions across the country opening. He suggested that the Board make an effort to float the idea and do more than it's doing now to have a collective blueprint that would be a win-win situation for all three localities.

Mr. Wiggins stated that drainage problems have been foremost on his mind recently. He stated the County has had the wettest winter he could remember. He addressed VDOT's responsibility for ditches along the side of the road, stating he has come to the conclusion that no locality gets a fair share of VDOT money because the money is not there. He noted that people are raking their leaves into the ditches which clogs up the culvert pipes, and he asked the residents not to do that and to put the leaves in bags for trash pickup. Mr. Wiggins stated it is up to everyone in the County to help with the drainage situation because VDOT can't do it. He stated the staff is doing everything it can to get the drainage situation slowed some, but it can't be done without the help of the citizens.

Mr. Shepperd commented on the Youth Commission survey comment that the Board of Supervisors was difficult to contact. He stated he did not know of a member of the Board who would tell anyone not to contact them. He asked the residents to encourage their young folks to contact the Board if they have some information or they need information. He noted he had a short visit with his parents in Jacksonville, Florida, recently, and he spoke of how the attitude there is that the Council members want to be anonymous. He stated it was good to get home to York County where people know who their representatives are and that they are working for the citizens.

Chairman Burgett stated he and his wife and Mrs. Noll attended the grand opening of Northside Church of Christ Community Center, noting that the church has been in operation for 104 years. He stated that in this morning's paper it stated that 138 houses have been approved in Colony Pines off of Denbigh Blvd. He indicated it was only half the story; the development was approved by a previous Board of Supervisors for 404 houses. The developer ran into wetlands problems, and this 138 houses is the first phase. He noted the total will be about 250, which are already counted in the County's Comprehensive Plan. Chairman Burgett stated the Board has been getting emails about the School Board's decision for all-day kindergarten and an addition to Grafton High School. He explained that matters dealing with the Schools are strictly School Board matters, and citizens need to contact the School Board members. He stated this Board gives about half the County budget to the School Division, and the School Board and School Division make the decisions on how those resources are spent.

March 4, 2003

Chairman Burgett stated this Board has always supported education, and will continue to do everything it can.

**CONSENT CALENDAR**

Mr. Shepperd moved that the Consent Calendar be approved as submitted.

On roll call the vote was:

Yea: (4) Shepperd, Zaremba, Wiggins, Burgett  
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

**Item No. 3. APPROVAL OF MINUTES**

The minutes of the following meetings of the York County Board of Supervisors were approved:

February 4, 2003, Regular Meeting  
February 11, 2003, Adjourned Meeting

**Item No. 4. COMMENDATION OF THE YORK LIONS CLUB: Resolution R03-36**

A RESOLUTION TO RECOGNIZE AND COMMEND THE YORK LIONS CLUB ON THE OCCASION OF THE 50<sup>TH</sup> ANNIVERSARY OF ITS CHARTER

WHEREAS, the York Lions were sponsored by the Poquoson Lions Club and were chartered on May 2, 1953; and

WHEREAS, the York Lions have and continue to personally and financially support York County schools and youth programs; and

WHEREAS, the York Lions, in conjunction with York County Social Services, provide assistance to the visual and hearing impaired by obtaining free medical attention, glasses, or hearing aids; and

WHEREAS, the York Lions have served and provided assistance to the less fortunate of York County for 50 years;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4<sup>th</sup> day of March, 2003, that the York Lions Club be, and it is hereby recognized and commended for 50 years of service to the citizens of York County.

BE IT FURTHER RESOLVED that on the anniversary of 50 years of service, it is fitting to recognize the thousands of hours contributed by the past and present members of the York Lions Club, and the York County Board of Supervisors does hereby express its heartfelt appreciation to the membership on behalf of the citizens of York County.

Item No. 5. PURCHASE AUTHORIZATION: Resolution R03-38.A RESOLUTION TO AUTHORIZE THE PROCUREMENT OF SERVICES  
FOR THE REHABILITATION OF WELL #4 (LIGHTFOOT).

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, that it involves the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 4<sup>th</sup> day of March, 2003, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	<u>AMOUNT</u>
Rehabilitation of Well #4 (Emergency Purchase)	\$42,855

Item No. 6. ROUTE 199 FORCE MAIN: Resolution R03-39.A RESOLUTION TO PERMIT THE INSTALLATION OF A COUNTY  
SANITARY SEWER FORCE MAIN WITHIN A PORTION OF THE  
VIRGINIA DEPARTMENT OF TRANSPORTATION ROUTE 199  
LIMITED ACCESS RIGHT-OF-WAY

WHEREAS, The Virginia Department of Transportation has granted permission to the County to install a 10" sanitary sewer force main within the terminal end of the Route 199 Limited Access Right-of-Way, provided that the County shall agree to relocate the force main as required by VDOT should the widening of the highway be necessary; and

WHEREAS, the Board agrees that it will be the responsibility of the County to relocate the force main should VDOT ever widen Route 199 from four lanes to six lanes in the area adjacent to the force main;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 4<sup>th</sup> day of March, 2003, that in consideration of the permission granted by VDOT for the installation of the above-referenced force main within a portion of the Route 199 Limited Access Right-of-Way, the Board agrees that the County shall relocate the force main at its own cost in the event that the highway is widened from four to six lanes within that part of the right-of-way wherein the force main has been installed.

Item No. 7. YORKTOWN VILLAGE ACTIVITY DISTRICT ACCESSORY STRUCTURE APPROVAL—  
PLUMLEY: Resolution R03-37.A RESOLUTION TO APPROVE THE REQUEST OF SELDON PLUM-  
LEY FOR THE CONSTRUCTION OF A DETACHED ACCESSORY  
STORAGE BUILDING ON PROPERTY LOCATED AT 220 CHURCH  
STREET IN YORKTOWN

March 4, 2003

WHEREAS, Mr. Seldon Plumley submitted Application No. YVA-18-03 requesting permission to construct an accessory storage building on property located at 220 Church Street (Marl Inn Bed and Breakfast site) in Yorktown; and

WHEREAS, pursuant to Section 24.1-327(b)(3) of the York County Zoning Ordinance (YVA-Yorktown Village Activity District), such requests may be approved by the Board of Supervisors by resolution; and

WHEREAS, the location and design of the proposed storage building will be compatible with adjacent properties and structures;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4<sup>th</sup> day of March, 2003, that the request of Seldon Plumley for the construction of an accessory storage building on property located at 220 Church Street, as described in the County Administrator's report to the Board dated February 20, 2003, be, and it is hereby, approved.

Item No. 8. UTILITY LICENSE AGREEMENT—CHASE/BUKANIN: Resolution R03-35.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR  
TO ENTER INTO A LICENSE AGREEMENT WITH RHONDA M.  
CHASE AND ROBERT M. BUCKANIN FOR UTILITY ACCESS  
ACROSS AN UNIMPROVED PORTION OF A DEDICATED ROADWAY

WHEREAS, Rhonda M. Chase and Robert M. Buckanin are the owners of property along an unimproved portion of Bay Tree Beach Road having a street address of 1101 and 1103 Bay Tree Beach Road; and

WHEREAS, Rhonda M. Chase and Robert M. Buckanin desire to obtain the right to install private water lines and other utilities along a portion of the unimproved portion of Bay Tree Beach Road as shown on two plats dated January 16, 1967, attached to the County Attorney's Report to the Board dated February 10, 2003; and

WHEREAS, Rhonda M. Chase and Robert M. Buckanin have proposed to the County a license agreement, by which they shall be granted such access, provided that the license agreement shall be nonexclusive; and

WHEREAS, it has been determined that entering into such license agreement benefits the public welfare and is not adverse to the County's interests.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 4<sup>th</sup> day of March, 2003, that the County Administrator be, and is hereby authorized, for and on behalf of the Board to enter into a license agreement whereby Rhonda M. Chase and Robert M. Buckanin shall be granted utility access along that unimproved portion of Bay Tree Beach Road as shown on the above-referenced plats, provided that such license shall be nonexclusive, such agreement to be substantially similar in form to the draft agreement transmitted to the Board by report of the County Attorney dated February 10, 2003, such license agreement to be approved as to form by the County Attorney.

Item No. 9. DONATION OF SURPLUS LIBRARY BOOKS: Resolution R03-44.

A RESOLUTION TO DONATE TO THE YORK COUNTY FRIENDS OF  
THE LIBRARY CERTAIN LIBRARY BOOKS WHICH HAVE BEEN  
DEEMED TO BE SURPLUS

WHEREAS, the head librarian for York County has determined that a number of library books are surplus and should be disposed of as surplus property; and

WHEREAS, the York County Friends of the Library has for many years supported the operation of the County's library system through financial contributions and the donation of volunteer service time; and

WHEREAS, this Board deems it to be in the public interest that the books currently identified by the head librarian as surplus books should be donated to the Friends of the Library for sale to the public or for such other uses as the Friends of the Library deems appropriate.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 4<sup>th</sup> day of March, 2003, pursuant to Code of Virginia § 15.2-953, that those library books currently identified by the head librarian as being surplus shall be donated to the York County Friends of the Library to be sold or otherwise disposed of in such manner as the Friends of the Library deems most advantageous for the charitable purposes for which it was formed.

Item No. 10. PENINSULA LIGHT RAIL PROJECT: Resolution R03-43.

A RESOLUTION TO INDICATE SUPPORT OF THE SELECTION OF  
THE LOCALLY PREFERRED ALTERNATIVE FOR RAIL TRANSIT ON  
THE PENINSULA

WHEREAS, several years ago the CSX Major Investment Study (MIS) investigated potential transportation improvements in the travel corridor generally along the CSX rail right-of-way and linking the downtown activity centers of Williamsburg, Newport News and Hampton with a Locally Preferred Alternative (LPA) of expanded bus service and furthering the study of Light Rail Transit; and,

WHEREAS, as congestion has continued to worsen, the Peninsula Mayors and Chairs requested the Hampton Roads Planning District Commission to reconsider the 1998 MIS LPA so as to advance the evaluation of Light Rail with complementary bus service and the request was approved by the Hampton Roads Metropolitan Planning Organization in July 2000 and,

WHEREAS, the Transportation District Commission of Hampton Roads (Hampton Roads Transit), as the designated public transportation provider in Hampton Roads has coordinated the additional study of light rail options and opportunities and, as the sponsoring agency, has the responsibility to select the "Locally Preferred Alternative" for the travel corridor; and

WHEREAS, rail transit offers the potential to mitigate highway network congestion and to provide additional capacity to the area's overall transportation network; and

WHEREAS, a modern, well functioning multi-modal transportation network will help foster economic growth and vitality in the region by providing increased mobility and regional connectivity as well as complementing sound land use, air quality and energy policies; and

WHEREAS, Hampton Roads Transit, in cooperation with the Federal Transit Administration, local jurisdictions, the business community and the general public, has completed an Alternatives Analysis that evaluated a number of potential rail alignments to serve the travel corridor and has identified a preferred alignment to carry into further detailed analysis and environmental review; and

WHEREAS, the proposal identified as the Locally Preferred Alternative would provide for a light rail linkage between Williamsburg and downtown Newport News generally along the CSX Railroad right-of-way and including a connecting corridor to downtown Hampton generally along Hampton Roads Center Parkway; and

WHEREAS, the York County Board of Supervisors believes that further study and pursuit of this alternative would be in the best interests of the citizens of the Peninsula and would contribute toward the enhancement of the area's transportation network.

NOW THEREFORE, BE IT RESOLVED, by the York County Board of Supervisors, this the 4<sup>th</sup> day of March, 2003, that it does hereby support the pursuit of improved public transportation services on the Peninsula as presented in the CSX Corridor Major Investment Study and the Peninsula Rail Transit Project Alternatives Analysis.

BE IT FURTHER RESOLVED that the Board supports the selection of the Locally Preferred Alternative and further detailed environmental and conceptual engineering evaluation of the corridor between Williamsburg and Downtown Newport News (including the Southeast sector) generally along the CSX railroad right-of-way, including and connecting with a corridor generally along Hampton Roads Center Parkway to Downtown Hampton.

BE IT STILL FURTHER RESOLVED that the Board supports inclusion of the Locally Preferred Alternative in the Hampton Roads Regional Long Range Transportation Plan.

## **NEW BUSINESS**

### **SUBLEASE TO THE INDUSTRIAL DEVELOPMENT AUTHORITY OF YORK COUNTY**

Mr. Barnett made a presentation on proposed Resolution R03-9 to authorize the execution of an agreement of lease and sublease with the Industrial Development Authority (IDA) of York County for certain property owned by the County, or leased to the County by the Trustees of the Town of York, and located on the Yorktown waterfront. He stated this is a slight modification of an agreement of the lease with the IDA brought to the Board before. It is an agreement to lease the waterfront property owned by the County and York Town Trustees with which the County has a development agreement.

Mr. Zaremba asked how long the timeframe for the lease is.

Mr. Barnett stated it is for the same time that the joint agreement with the York Town Trustees is in effect.

Mr. Zaremba asked what kind of interaction is called for between the IDA and the Board of Supervisors.



Mr. Barnett stated language was added that requires approval by the Board for any leases the IDA enters.

Mr. McReynolds noted that after consultation with the Board, the County Administrator may execute the agreements.

Discussion followed concerning a termination clause.

Mr. Zaremba then moved the adoption of proposed Resolution R03-9(R) that reads:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE AN AGREEMENT OF LEASE AND SUBLEASE WITH THE INDUSTRIAL DEVELOPMENT AUTHORITY OF YORK COUNTY FOR CERTAIN PROPERTY OWNED BY THE COUNTY, OR LEASED TO THE COUNTY BY THE TRUSTEES OF THE TOWN OF YORK, AND LOCATED ON THE YORKTOWN WATERFRONT

WHEREAS, by a deed recorded as Instrument No. 020005495, the Board acquired title to various parcels of land in Yorktown, Virginia, including but not limited to York County Tax Map Parcels 18A-1-11B, 18A-1-11D, 18A-1-7B, 18A-1-146, 18A-1-147, 18A-1-144A, 18A-1-145A, 18A-1-144, 18A-1-145, and 18A-9-A1; and

WHEREAS, the Trustees of the Town of York (the "Trustees") have entered into a certain joint agreement dated May 7, 2001, subsequently amended, whereby property belonging to said Trustees, including York County Tax Map Parcels 18A-8-A and 18A-8-146B are to be developed and maintained by the County, with the right of the County to sublease said property to the Industrial Development of York County ("IDA") for development in accordance with the terms of the referenced joint agreement; and

WHEREAS, the County intends to acquire a certain unopened portion of Martiau Street lying between York County Tax Map Parcels 18A-1-7B, and Tax Map Parcels 18A-1-146 and 18A-1-147, and also a 20' strip of land currently owned by the Commonwealth of Virginia and lying across a portion of York County Tax Map Parcel 18A-1-11D; and

WHEREAS, the County desires to lease or sublease to the IDA all or part of the property described above to facilitate the development of all of the above described property consistent with the joint agreement of May 7, 2001, as amended.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 4<sup>th</sup> day of March, 2003, that the County Administrator is authorized to execute an agreement of lease and sublease with the IDA for all of the above described property, for a nominal rent not to exceed \$1.00 per year, provided that the IDA shall be obligated by the terms of the agreement of lease and sublease to perform all of the County's obligations as set out in the said joint agreement, such agreement of lease and sublease to be approved as to form by the County Attorney.

On roll call the vote was:

Yea: (4) Zaremba, Wiggins, Shepperd, Burgett  
Nay: (0)

March 4, 2003

**CLOSED MEETING.** At 9:11 p.m. Mr. Shepperd moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(3) of the Code of Virginia pertaining to the acquisition of property to be used for a public purpose; and Section 2.2-3711(a)(5) pertaining to business or industry where no announcement has yet been made.

On roll call the vote was:

Yea: (4) Wiggins, Shepperd, Zaremba, Burgett  
Nay: (0)

**Meeting Reconvened.** At 9:38 p.m. the meeting was reconvened in open session by order of the Chair.

Mr. Wiggins moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM  
OF INFORMATION ACT REGARDING MEETING IN CLOSED MEET-  
ING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4th day of March, 2003, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (4) Shepperd, Zaremba, Wiggins, Burgett  
Nay: (0)

**Meeting Adjourned.** At 9:40 p.m. Mr. Shepperd moved that the meeting be adjourned to 7:00 p.m., Thursday, March 6, 2003, in the Nile Room, Nick's Seafood Pavilion, Yorktown, for the purpose of conducting a joint meeting with the Industrial Development Authority of York County.

On roll call the vote was:

Yea: (4) Zaremba, Wiggins, Shepperd, Burgett  
Nay: (0)

---

James O. McReynolds, Clerk  
York County Board of Supervisors

James S. Burgett, Chairman  
York County Board of Supervisors